

Remarks

Claims 1-23, 30-34, 37-43 and 46-55 are pending in the present application. Claims 1, 14, 30 and 39 are independent claims. The preamble of certain dependent claims has been amended to be consistent with the preamble of dependent claims 48-55. Such modifications improve form and do not add new matter to the disclosure.

Drawing Objection

The drawings have been objected to because the feature "inner radius and start position" should be shown. Accordingly, Figures 3 and 4 have been amended to provide labels for these features. Such features do not add new matter and are fully supported by the original disclosure, e.g., Figure 1 and corresponding description, page 4, lines 19-21 and page 5, line 13-page 6, line 23 of the original specification, and Figure 6 and corresponding description. Accordingly, the drawing objection should be withdrawn.

35 U.S.C. § 112, First Paragraph, Rejection and Objection to the Specification

Claims 1-23, 30-34, 37-43 and 46-55 have been rejected under 35 U.S.C. § 112, first paragraph as allegedly containing subject matter which was not described in the specification at the time the application was filed and to enable one skilled in the art. The Amendments filed on June 21, 2004 and July 20, 2004 have been objected to under 35 U.S.C. § 132 because allegedly they introduce new matter to the disclosure. This rejection and the objection are respectfully traversed.

The Examiner alleges that the original specification does not disclose that "a start position of the supplementary spare area is varied and is moved toward an inner radius

AMENDMENTS TO THE DRAWINGS

Attached hereto is(are) six (6) sheet(s) of corrected drawings that comply with the provisions of 37 C.F.R. § 1.84. The corrected drawings incorporate the following drawing changes:

In Figs. 1-5B, "Related Art" has been changed to --Background Art--(these changes were proposed on February 4, 2002 and approved by the Examiner);

In Figs. 3-4(b), "inner radius" and "outer radius" have been labeled; and

In Figs. 4(a) and 4(b), "start address" and "end address" have been labeled to depict the claimed features.

It is respectfully requested that the corrected drawings be approved and made a part of the record of the above-identified application.

of the recording medium, depending upon the variance of the size of the supplementary spare area, while an end position of the supplementary spare area is fixed and is located close to a lead-out area of the recording medium". Applicant respectfully disagrees.

As discussed above, the allegedly missing features recited in independent claim 1 are fully supported by the original specification. For example, Figure 1 clearly shows the position of the data area having one or more user data areas to be located between the lead-in area and the lead-out area of the disc. As well understood by one skilled in the art from Figure 1, the terms "lead-in area" and "lead-out area" are known to be associated with respectively to the areas at the inner and outer radius directions of this disc. Further, at page 4, lines 19-21 of the original specification it is described that the PSA as shown in Figure 3 is allocated at the top of the data area, i.e. near the lead in area or towards the inner radius direction of the disc. At page 5, lines 13-24, the original specification also describes a supplemental spare area to be allocated near the end of the user area, i.e., close to the lead-out area or towards the outer radius direction of the disc. It also describes that the location information of the supplemental spare area includes the start address and the end address of the supplemental spare area. As shown in Figures 4A and 4B and as described on page 6, lines 2-10, the supplemental spare area may be enlarged as needed, wherein the enlargement involves moving the start position of the supplemental spare area towards the inner radius direction of the disc while the end position of the supplemental spare area is fixed close to the lead-out area of the disc. As stated on page 9, lines 13-15 of the original specification, one of the objects of the invention is to solve the problems associated with the related art as

shown in Figures 1-5 and thus the invention may invariably have certain overlapping subject matter with the related art.

Accordingly, Applicant respectfully submits that the original specification describes fully and adequately the feature "a start position of the supplemental spare area is varied and is moved toward an inner radius of the recording medium, depending upon the variants of the size of the supplementary spare area, while an end position of the supplementary spare area is fixed and is located close to lead-out area of the recording medium" as recited in claim 1 and one skilled in the art would certainly be able to understand how to practice the enlargement of the supplementary spare area in view of the original specification. These arguments also apply to other independent claims reciting the same or similar features. Thus, the rejections and the objection are improper and must be withdrawn.

35 U.S.C. § 112, Second Paragraph Rejection

Claims 1-23, 30-34, 37-43 and 46-55 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

As discussed above, the original specification (e.g., on page 5, lines 13-page 6, line 23) adequately describes the enlargement of the supplemental spare area. Thus, Applicant respectfully submits that all of the claims are in full compliance with 35 U.S.C. § 112, second paragraph, and the rejection should be withdrawn.

35 U.S.C. § 103 Rejection

On page 5 of the last Office Action dated September 21, 2004, the Examiner states that "as a courtesy, original rejection of the claims before the new matter was

introduced provided below.” Thus, the Examiner has rejected claims 1-6, 9-10, 30-32, 35, 37-41, 44 and 46-47 under 35 U.S.C. § 103 as being unpatentable over Fukushima et al. in view of Ohata et al., and claims 7-8, 11-23 and 33 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Fukushima and Ohata as applied to claims above and further in view of Ito et al. It appears that the discussion of these rejections is the same as the one contained in the Office Action dated March 11, 2004. This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

Regarding independent claim 1, Fukushima et al. and Ohata et al., either taken singularly or in combination, do not teach or suggest, *inter alia* “resetting a location information of the supplementary spare area in response to a formatting request to indicate at least that the supplementary spare area is not assigned, wherein the supplementary spare area has a variable size and a start position of the supplementary spare area is varied and is moved toward an inner radius of the recording medium, depending upon the variance of the size of the supplementary spare area, while an end position of the supplementary spare area is fixed and is located close to a lead-out area of the recording medium”. The Examiner equates the secondary spare area “ss” shown in Figure 1 of Fukushima to Applicant’s supplementary spare area. But there is no discussion in Fukushima of resetting the location information of this area in response to the formatting request. Similarly, although Ohata et al. may disclose the size of a spare area, it does not indicate whether the spare area is a primary spare area or a supplementary spare area. Further, Ohata nowhere discloses the feature of resetting the location information of the supplementary spare area in response to the formatting request to indicate that the supplementary spare area is not assigned.

Moreover, regarding the feature of formatting the medium to use the supplementary spare area as a user data user after the formatting, as recited in independent claim 1, the Examiner correctly acknowledges that Fukushima does not disclose this feature and thus relies on Ohata et al. But Ohata et al. does not disclose this missing feature. Column 8, lines 21-49 of Ohata et al., which the Examiner has cited to support his position that Ohata et al. teaches this missing feature, merely discloses the conventional use of a spare area for storing data corresponding to a defective area. Ohata et al. nowhere discloses that the supplemental spare area is used as a user data area after the formatting is performed. Therefore, the combination of references as applied by the Examiner does not teach or suggest the resetting and/or formatting step as recited in claim 1. The same arguments apply to other independent claims 14, 30 and 39 insofar as they recite similar features.

Accordingly, independent claims 1, 14, 30 and 39 and their dependent claims (due to their dependency) are patentable over the prior art of record including the applied references, and the rejections should be withdrawn.

In the alternative, in view that dependent claims 48-55 have not been rejected over any prior art and Applicant has hereby fully overcome the § 112 rejections of these claims, it is believed that claims 48-55 are allowable over the prior art of record and indication of such allowance is respectfully requested.

Conclusion

For the foregoing reasons and in view of the above clarifying amendments, Applicant respectfully requests the Examiner to reconsider and withdraw all of the

objections and rejections of record, and earnestly solicits an early issuance of a Notice of Allowance.

Should there be any outstanding matters which need to be resolved in the present application, the Examiner is respectfully requested to contact Esther H. Chong (Registration No. 40,953) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Applicant(s) respectfully petitions under the provisions of 37 C.F.R. § 1.136(a) and 1.17 for a two-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of \$450.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment: Figures 1-5B